

MEMO ENDORSED

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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*Southern District of New York
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March 10, 2020

BY ECF

Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

**Re: United States v. Merlin Capellan,
18 Cr. 250 (ER)**

Dear Judge Ramos:

I write to request that the Court order the termination of Merlin Capellan's probation. The Probation Office consents to this application for early termination; the government takes no position.

The Court may "terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice." 18 U.S.C. § 3564(c). To make this determination, the Court considers the §3553(a) factors to the extent they are applicable. *Id.* The Court may grant an application for early termination without holding a hearing. *See* Fed. R. Crim. P. 32.1(c)(2).

By way of background, Ms. Capellan was convicted in this case of a misdemeanor violation of 21 U.S.C. §§ 844(a) & 846. It was her first offense, and her advisory Guidelines range was 0–6 months. This Court sentenced her to three years of probation on November 16, 2018. At the time of sentencing, Ms. Capellan had been on Pretrial supervision for 14 months. She had complied fully with Pretrial supervision and had made great personal strides during the pendency of the case, regaining custody of her son and securing employment at the Javits Center's in-house caterer.

In the 15 months since sentencing, Ms. Capellan has complied fully with Probation supervision and has consolidated and extended her gains. She continues to work at the Javits Center caterer and she has stable housing, residing with her son in a NYCHA apartment in the Bronx. When she is not working or caring for her children, Ms. Capellan is studying to obtain her GED. She plans to begin pursuing higher education through a CUNY program this fall.

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Early termination of Ms. Capellan's probation is in the interest of justice because Ms. Capellan has demonstrated her rehabilitation by her good conduct, progress, and stability. As noted, the Probation Office consents to this application and the government takes no position.

Respectfully submitted,

/s/

Clay H. Kaminsky
Assistant Federal Defender
(212) 417-8749

cc: AUSA Michael McGinnis
USPO Zondra Jackson

The application GRANTED. Capellan's probation is TERMINATED.

March 10, 2020
New York, New York

 3/10/2020
EDGARDO RAMOS, U.S.D.J.